

REMARKS

Reconsideration of this application is respectfully requested.

In the Office Action, the Examiner rejects claims 1-19. Claims 1, 3, 7, 9 and 19 are rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent Application No. 2002/0102977 to Shi (hereinafter "Shi"). Claims 2, 4-6 and 8 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Shi in view of U.S. Patent No. 5,880,732 to Tryding (hereinafter "Tryding"). Claims 10, 12, 16 and 18 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Shi in view of U.S. Patent No. 6,308,072 to Labeledz et al. (hereinafter "Labeledz"). Claims 11, 13-15 and 17 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Shi in view of Labeledz and further in view of Tryding.

Regarding the 35 U.S.C. §102(e) rejection of independent claims 1 and 19, and the 35 U.S.C. §103(a) rejection of independent claim 10, the Examiner alleges that the Shi reference discloses monitoring the channel quality of the communication between a cellular telephone set and an accessory, and control means for when the channel quality has deteriorated to less than a predetermined level, originating a call to the remote cellular telephone set.

The present invention provides for a cellular telephone set that can provide communication with an accessory, such as a display unit, and provide both voice communication and other communication, such as videophone communication, between the cellular telephone set and the accessory. When the channel quality deteriorates to a predetermined level or less, a control section originates a phone call, other than the call used to perform videophone function, to establish voice communication with the remote cellular phone set.

Shi provides a method and apparatus in which communication between a cellular telephone and a base station is monitored (paragraph 0031), the current signal strength is

compared with nearby communication signals (paragraph 0033), and if the communication signal is less than a predetermined level (paragraph 0038), then the communication is "handed off" to the signal with a higher communication signal (paragraph 0033). Further, Shi discusses hard handoff (where there is a short disturbance in the communication felt by the user) and soft handoff (where the user does not sense any disturbance in communication) in the background section of the patent application (paragraphs 0002-0007).

Therefore, Shi is only capable of switching channels in the same phone call when there is a stronger signal obtainable by the cellular telephone. The present invention, as recited in independent claims 1, 10 and 19, provides for originating a call to keep the voice communication, which is different than the call used by the cellular phone to perform videophone and/or other communication, when the signal has deteriorated or is of a low quality.

As shown in Figs. 1-2, once a signal is received indicating that the channel quality has deteriorated to a predetermined level or less, a control section 18 originates a call to establish voice communication with the remote cellular phone set 40, which is different than the call used by the cellular phone to perform videophone and/or other communication. Thus, the voice communication can be kept established through the new phone call when other communication has deteriorated to a low quality.

Anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim. Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). As Shi fails to teach the elements of independent claims 1 and 19, Applicant respectfully submits that the 35 U.S.C. §102(e) rejection of independent claims 1 and 19 is

improper, and respectfully requests withdrawal of the 35 U.S.C. §102(e) rejection of claims 1, 3, 7, 9 and 19.

Regarding the 35 U.S.C. §103(a) rejection of independent claim 10, it has been held by the Courts that to establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Labeledz, similar to Shi, is directed to soft handoff (Col. 3, lines 48-58) in a wireless communication system, and does not discuss originating a different phone call when a signal has deteriorated, but teaches “handing off” the call.

Shi and Labeledz, individually or in combination, fail to teach originating a call to keep the voice communication, which is different than the call used by the cellular phone to perform videophone and/or other communication, when the signal has deteriorated or is of a low quality, as recited in independent claim 10. Accordingly, Applicant respectfully submits that the 35 U.S.C. §103(a) rejection of independent claim 10 is improper.

Turning to the §103(a) rejections of the dependent claims, it must be noted that the Examiner relies on Labeledz and/or Tryding, in combination with Shi, to support the asserted rejections. As set out above, Shi does not disclose all the elements of the independent claims. Accordingly, since the dependent claims recite additional unique elements and/or limitations, the dependent claims remain patentable over the asserted combination since the hypothetical combination of the cited additional references does not supply the elements missing from Shi with respect to the independent claims.

Therefore, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection of claims 2, 4-6 and 8, the 35 U.S.C. §103(a) rejection of claims 10, 12, 16 and 18, and the 35 U.S.C. §103(a) rejection of claims 11, 13-15 and 17.

Accordingly, Applicant respectfully requests allowance of claims 1-19.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorney would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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